



**ARRL** The national association for  
**AMATEUR RADIO®**

Advancing the Art and Science of Radio—Since 1914

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## MEMORANDUM

To: Senate Commerce, Science and Transportation Committee Members  
From: ARRL, the national association for Amateur Radio  
Re: Misleading Information Concerning S.1685, the Amateur Radio Parity Act of 2015.  
Date: November 11, 2015

S.1685, the Amateur Radio Parity Act of 2015, would extend to all types of land use regulation - municipal and private - a very flexible, 30-year-old FCC regulatory policy intended to protect the strong Federal interest in Amateur Radio communications. At the same time, the legislation would fully protect the jurisdiction and processes of homeowners' associations (HOAs) in deed-restricted communities.

We have recently noted some misinformation being disseminated to HOAs concerning this legislation. We would like to correct this misinformation.

It has been asserted that this legislation would deprive HOAs of the authority to require prior approval or to have uniform rules for installation of amateur radio antennas. That is false. S.1685 preserves homeowners' association jurisdiction completely. The only obligation of an HOA in the administration of private land use regulations would be the same as that applicable to municipal land use regulators now: the HOA: (1) could not preclude Amateur Radio communications; (2) it must reasonably accommodate Amateur Radio communications; and (3) the HOA regulations must constitute the minimum practicable regulation of Amateur Radio facilities consistent with the HOA's legitimate purpose (i.e. aesthetics). How that is done *in each and every case would be left to the good faith discretion of the HOA*, just as municipal antenna regulation is left to the fair and reasonable discretion of municipal land use regulators now. The FCC would not make any adjudications whatsoever.

It is claimed that S.1685 would deprive HOAs of the right to apply a "critical approval process to ensure compliance with community architectural standards; including safety and aesthetic guidelines." This is completely false as well. There is nothing in S.1685 which would prohibit HOA review or approval of Amateur Radio antennas or alter existing HOA standards unless the standard is a complete prohibition of Amateur Radio antennas. The question in each case, with respect to each parcel of residential real property, is what is reasonable with respect to *that parcel*. That decision in every case is made by the HOA, premised on good faith negotiation with the FCC-licensed Amateur Radio operator.

■ Kay C. Craigie, N3KN  
President

■ Rick Roderick, K5UR  
First Vice President

■ Jim Fenstermaker, K9JF  
Second Vice President

■ Jay Bellows, K0QB  
Vice President International Affairs

■ Rick Niswander, K7GM  
Treasurer

■ David Sumner, K1ZZ  
Chief Executive Officer  
Secretary

■ Barry J. Shelley, N1VXY  
Chief Financial Officer

■ Harold Kramer, WJ1B  
Chief Operating Officer

■ Brennan Price, N4QX  
Chief Technology Officer

ARRL Headquarters, 225 Main Street, Newington, Connecticut, USA 06111-1494

Telephone: 860-594-0200 ■ FAX: 860-594-0259 ■ [www.arrl.org](http://www.arrl.org)

AMERICAN RADIO RELAY LEAGUE, INC.— International Secretariat of the International Amateur Radio Union



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Finally, it is argued that the FCC's "reasonable accommodation" standard mandates installation of Amateur Radio antennas with no prior approval and no safety certification or restrictions. This is not true. First of all, safety certifications and restrictions are established by zoning and building code regulations, not by HOAs. HOA concerns are purely aesthetic. The reasonable accommodation standard that has been in place with respect to municipal land use regulations does not preempt HOA's architectural guidelines or rules regarding amateur radio antennas (unless those rules, or the language of the deed restrictions, covenants, HOA regulations or architectural guidelines prohibit outdoor antennas *completely*). An HOA, in the exercise of its normal review processes for proposed antennas, would be obligated only to make a reasonable accommodation and not impose restrictions that are more than what is practically necessary to achieve the HOA's (aesthetic) goal. The HOA would continue to have the authority to require prior approval for any given outdoor antenna installation (just as municipal land use regulators are now able to require prior approval in the form of building permits or conditional/special use permits for antenna installations).

In 1999, FCC said: "...we ...strongly encourage associations of homeowners and private contracting parties *to follow the principle of reasonable accommodation and to apply it to any and all instances of amateur service communications where they may be involved.*" Order, DA 99-2569 at ¶ 6 (1999). This legislation does nothing more than to call on FCC to make this a requirement for HOAs. It preserves all HOA jurisdiction, but also promotes Amateur Radio emergency communications by public service-minded volunteers.

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